

TOWN OF MARSHFIELD  
COMMONWEALTH OF MASSACHUSETTS  
SPECIAL TOWN MEETING WARRANT

Special Town Meeting, Monday, April 28, 2008

At 7:30 o'clock in the evening at Marshfield High School

Plymouth, SS: To either of the constables in the Town of Marshfield in the County of Plymouth.

Greetings: In the name of the Commonwealth of Massachusetts you are required to notify and warn the inhabitants of the Town of Marshfield qualified to vote in Town affairs to meet in the Marshfield High School Gymnasium on Monday, the 28th day of April 2008, at seven-thirty in the evening then and there to act on the following articles:

**ARTICLE 1** Will the Town vote to make the following adjustments to the Fiscal Year 2008 General Fund budget line items voted as Article 6 at the April 2007 Annual Town Meeting:

Transfer from the following FY 2008 budgets:

Selectmen FT Salaries:	\$23,000
Town Accountant FT Salaries:	\$24,000
Medicare:	\$62,777
Insurance-General Liability Expenses:	\$23,250

Transfer to the following FY 2008 budgets:

Legal Expenses:	\$70,000
Veterans Expenses-Benefits:	\$44,000
Library Expenses-Building Maintenance:	\$18,777
Conservation Salaries-Sick Leave Incentive:	\$ 250

Or take any other action relative thereto?

Board of Selectmen

**Recommendation: At Town Meeting.**

*Article 1 Explanation: This appropriation will fund those general fund line items which are experiencing shortfalls for unforeseen circumstances by transferring funds from line items which are performing better than expected.*

**ARTICLE 2** Will the Town vote a sum of money from available funds and/or transfer from the Fiscal Year 2008 General Fund budget line item – Employee Benefits as voted at the April 2007 Annual Town Meeting, Article 6 to a salary adjustment account to pay employees amounts to which they are entitled under applicable collective bargaining agreements or personnel bylaws, for unused sick and vacation leave and to fund settled collective bargaining agreements, employment contracts and personnel bylaw salary increases retroactive to July 1, 2007 or take any other action relative thereto.

Board of Selectmen

**Recommendation: At Town Meeting.**

*Article 2 Explanation: This appropriation will fund those collective bargaining agreements negotiated with union employees. The agreements are for three years and call for cost of living increases as follows: FY 2008 – ?%, FY 2009 – ?%, FY 2010 – ? %.*

**ARTICLE 3** Will the Town vote a cost of living adjustment of X% and to adjust the wage classification table for those employees covered by the Personnel Bylaw and adjust the salaries of the lifeguards and parking attendants retroactive to July 1, 2007 or take any other action relative thereto.

Personnel Board

**Recommendation: At Town Meeting.**

*Article 3 Explanation: This article is to align the Personnel Bylaw with the collective bargaining agreements.*

**ARTICLE 4** Will the Town vote to expend the sum of \$23,039 from Insurance Recovery Proceeds for the purchase of a police cruiser or take any other action relative thereto.

Board of Selectmen

**Recommendation: At Town Meeting.**

*Article 4 Explanation: A police cruiser was totaled in January 2008. Insurance settlements in excess of \$20,000 require town meeting approval to be expended on the repair or replacement of the damaged equipment or building.*

**ARTICLE 5** Will the Town vote to expend a sum of money from Insurance Recovery Proceeds to repair damage to Ventress Memorial Library caused by roof leaks in November 2007 through February 2008 or take any other action relative thereto.

Board of Selectmen

**Recommendation: At Town Meeting.**

*Article 5 Explanation: The Library suffered damages to the building as well as a loss of books due to the early onset of winter storms prior to the replacement of the roof authorized at the October 2007 STM. The insurance proceeds currently stand at \$19,989.05 but additional bills have been submitted. If granted, the proceeds will exceed \$20,000 and require town meeting approval to be expended.*

**ARTICLE 6** Will the Town vote to rescind the following unused authorizations to borrow in accordance with MGL Chapter 44, Sections 7 and 8, the other provisions of such articles to remain in full force and effect or take any other action relative thereto.

Art 4, ATM 04/2005	\$28,000	Loader #75 Replacement
Art 4, ATM 04/2005	\$ 44,000	Skatepark ADA compliance
Art 4, ATM 04/2006	\$ 73,000	SRS Roof replacement
Art 4, ATM 04/2006	\$ 19,000	Chipper #19 Replacement
Art 17, STM 10/2006	\$ 4,000	Church St Land purchase
Art 1, STM 4/2000	\$189,420	Sewer 2000 Ocean St Ext

Treasurer/Collector

**Recommendation: At Town Meeting.**

*Article 6 Explanation: This article rescinds borrowing approvals from earlier Town Meetings. The projects were completed without the need to borrow the full authorized amount.*

**ARTICLE 7** Will the Town vote to raise and appropriate, or transfer from available funds the sum of \$50,000 to be expended for legal costs and related expenses arising out of the Logan flight path litigation, or take any other action relative thereto.

Board of Selectmen

**Recommendation: At Town Meeting.**

*Article 7 Explanation: This article will provide funding to further pursue this litigation.*

**ARTICLE 8** Will the Town vote to raise and appropriate or transfer from available funds the sum of \$7,726.36 for payment of unpaid bills incurred during previous fiscal years or take any other action relative thereto.

<u>Department</u>	<u>Vendor</u>	<u>Amount</u>
Town Clerk	Thomson West	\$609.22
Benefits	Health Resources	\$1,014.00
Legal	Paul Garvin & Associates	\$280.00
DPW	Bay State Gas	\$3,407.79
DPW	Commerce Insurance	\$1,619.82
Board of Appeals	The Cecil Group	\$795.53

Board of Selectmen

**Recommendation: At Town Meeting.**

*Article 8 Explanation: These are invoices from prior years that need to be paid.*

**ARTICLE 9** Will the Town vote to amend Article Twenty of the General Bylaws, the Earth Removal Bylaw, as follows or take any other action relative thereto:

By striking the word “soil” from paragraph 1 and substituting therefor the word “topsoil”; and by adding the following new sentence: “Topsoil and loam shall mean those earthen materials lying at the surface which are suitable for the support of plant life.”

By striking from paragraph 3(a) the word “ten” and substituting therefor the word “one hundred”.

By adding the following new paragraph 3(d):

“d. The Board of Selectmen may, in its reasonable discretion, issue an earth removal permit without requiring full compliance with the requirements of this bylaw when it determines that such proposed earth removal is the minimum quantity of material necessary to be removed in order to construct a building, structure, street, driveway, sidewalk, path or appurtenance in accordance with the approvals therefor issued by the appropriate town officials, boards or agencies. Provided however, that this exception shall not apply where the Board of Selectmen determine, after hearing, that the proposed construction is a pretext for earth removal and sale, or that the proposed earth removal shall cause damage to the public health, safety or the environment. Whenever a Town

official, board or agency issues a permit or approval for a project involving the removal of in excess of one hundred cubic yards of earthen material the official, board or agency shall notify the Board of Selectmen of such permit or approval and shall consider making any necessary compliance with this bylaw a condition of such permit or approval.”

By striking out in its entirety paragraph 8 of the bylaw and renumbering the succeeding paragraphs.

By adding to the end of paragraph 9 (b) the following:

“; for each subsequent offense two hundred dollars (\$200).”

Board of Selectmen

**Recommendation: At Town Meeting.**

*Article 9 Explanation: This amendment to the Earth Removal Bylaw is designed to correct technical flaws in its language that are inconsistent with the way it has been applied in practice and with state law.*

**ARTICLE 10** Will the Town vote to act upon the recommendation of the Board of Public Works, to authorize the Board of Public Works, on behalf of and in the name of the Town, to take by eminent domain from Owners Unknown the parcels of land shown on the Marshfield Assessors’ Maps as Lots: E08-01-14, E08-01-03, E08-01-04 and a certain unnumbered, triangular-shaped parcel of land containing 6.6 acres more or less, lying adjacent to Lot E08-01-03 on its westerly side, said parcels lying off of Old Mt. Skirgo Street, containing in total 25 acres more or less, for purposes of protection of the groundwater supply for the Old Mt. Skirgo Wellfield, with no land damages to be paid by the Town, or take any other action relative thereto.

Board of Public Works

**Recommendation: At Town Meeting.**

*Article 10 Explanation: These parcels are listed by the Assessors as belonging to owners unknown. A thorough title search of the adjacent parcels over a period of months at the Registry of Deeds and in Town and Duxbury records has produced no indication as to who owns the parcels. They are landlocked and are abutted on three sides by land currently owned by the Town.*

**ARTICLE 11** Will the Town vote to act upon the recommendation of the Board of Public Works, to authorize the Board of Public Works, on behalf of and in the name of the Town, to acquire ownership in fee simple of the below described parcel of land for the purposes of protection of the Magoun Pond Aquifer well field drinking water source, and to expend certain sums of money by borrowing and to authorize the Treasurer, with approval of the Selectmen, to issue any bonds or notes that may be necessary for that purpose as authorized by M.G.L. c.44 or any other enabling authority, and/or to expend

certain sums of money from the Water Enterprise Retained Earnings, and further to authorize the Board of Selectmen, to grant a permanent deed restriction meeting the requirements of General Laws Chapter 184 limiting the property to the purpose for which it was acquired and that the Board of Selectmen and Board of Public Works be authorized, as they deem appropriate, to enter into all agreements and execute any and all instruments necessary to effectuate the purpose of this article. Said deed restrictions may be granted to any organization qualified and willing to hold such a restriction, or take any other action relative thereto. Said Parcel shall be subject to the provisions of Article 97 of the State Constitution.

Portion of Lot C-11-02-13A at 4 Union Street, 9.38+/- acre undeveloped portion of land for a purchase price of a sum of money.

**Recommendation: At Town Meeting**

*Article 11 Explanation: The property located on 4 Union has a portion that is 9.38 acres more or less that the Town wishes to acquire for water protection purposes. The land is located within Zone 2 of the Magoun Pond Aquifer which feeds the well fields for the Union 1&2 wells.*

**ARTICLE 12** Will the Town vote to appropriate \$ 165,000 to be used to fund the construction of the Carolina Hill Water Tank and related expenses and to meet the cost of such appropriation by using Water Retained Earnings and transferring the unexpended balances of the following articles from previous Town Meetings listed below or to take any other action relative thereto.

Excavator & Trailer Water		
Article 4 – 4/04ATM: -	\$33,000.00	
Moraine Street Water Main		
Article 4 – 4/02ATM: -	6,254.00	(borrowing)
Pickup Truck Replace Water		
Article 4 – 4/05ATM: -	3,032.53	
Replace Utility Van Water		
Article 4 – 4/06ATM: -	7,159.11	
Pudding Hill Water Tank		
Article 4 – 4/99ATM: -	4,237.52	
Sea Street Water Mains		
Article 3 – 4/05STM:-	<u>8,009.24</u>	
Sub Total	\$ 61,692.40	
Retained Earnings	\$ 103,307.60	

**TOTAL: \$ 165,000.00**

Board of Public Works

**Recommendation: At Town Meeting.**

*Article 12 Explanation: Additional funding is required to complete water system modifications related to the construction of the new 2 million gallon water storage tank to be located on Carolina Hill. The completed projects listed were previously funded using retained earnings or borrowed as indicated.*

**ARTICLE 13** Will the Town vote to appropriate \$ 99,962.74 to be used to fund the Wastewater Collection System Repairs, and to meet the cost of such appropriation by transferring the unexpended balances of the following articles from previous Town Meetings set out below or to take any other action relative thereto.

Vactor/Jet Truck Wastewater	
Article 4 – 4/04ATM: -	\$11,839.00 (borrowing)
Sewer Outfall Pipe Wastewater	
Article 4 – 4/89ATM: -	25,892.21
Sewer Outfall Pipe Wastewater	
Article – 10/98STM: -	29,307.58
Replace Pumps Wastewater	
Article 4 – 4/04ATM: -	26,523.83
Replace Electrical Conduit	
Article 4 – 4/06ATM: -	<u>6,400.12</u>

**TOTAL: \$ 99,962.74**

Board of Public Works

**Recommendation: At Town Meeting.**

*Article 13 Explanation: Funding is required to continue program to replace wastewater collection system piping and structures that are, leaking, deteriorated, and have reached the end of their useful life. These completed projects were previously funded using retained earnings or borrowed as indicated. The transferred funds will be used to fund the Collection systems and Pipeline repairs in the current Fiscal year and in FY 2009*

*and there will be no such request in the April 2008 Article 4 Waste Water capital requests.*

**ARTICLE 14** Will the Town vote to transfer from the retained earnings of Solid Waste Enterprise a sum of money to offset the under collection of costs from rates due to the implementation of a Pay as You Throw program in FY 2008.

Board of Public Works

**Recommendation: At Town Meeting.**

*Article 14 Explanation: Funding is required to meet the expense of operation of the Solid Waste Enterprise due to an under collection from rates in FY 2008 that was the result of the reduction in the SWT charge to subscribers from an anticipated \$385/yr to \$275/yr when the Town approved Article 18 Option 2 at the ATM of April 2007. The Town has experienced excellent response to the new program with recycling tonnage up 31% and trash tonnage down 35% through the first 6 months of the program. The rate set in the April 2007 ATM was based on the best estimate of reduced costs and increased recycling receipts for the new program and the possibility of a transfer from retained earnings for any shortfall was anticipated. At the time of the submittal of this STM Article the year end projection of under-collection was about \$286,000.*

**ARTICLE 15** Will the Town vote to act upon the recommendation of the Community Preservation Committee for the fiscal year beginning July 1, 2007, to expend, or set aside for later expenditure a sum of money from the Community Preservation fund established pursuant to Massachusetts General Laws Chapter 44B as follows:

<b>Fund Category</b>	<b>Project</b>	<b>Amount</b>	<b>Department/Applicant</b>
<b>Historic Preservation</b>	Purchase buildings and land at 2029- 2033 Ocean Street., parcel id G07-02-18.	\$510,000	Board of Selectmen

It is further stipulated that:

- 1. The department named in each specified project shall assume the responsibility to fully execute the project*
- 2. Any un-used funds will be returned to the appropriating Community Preservation Act Fund.*
- 3. CPA funds can be used for the purpose of matching grants from other sources.*



The Town Accountant is instructed to defray the aforesaid expenditures in the following manner:

**Item:** \$510,000 appropriated from Budgeted Reserve to purchase land and buildings located at 2029-2033 Ocean Street, parcel G07-02-18.

Community Preservation Committee

**Recommendation: At Town Meeting.**

*Article 15 Explanation: The appraised value of this site is over \$700,000. There is currently a restriction to preserve the exterior of the building in place on the property. Funds include an environmental site investigation and closing costs.*

**ARTICLE 16** Will the Town vote to raise and appropriate, transfer or borrow a sum of money for additional funding required to replace the Ventress Library Roof or take any action relative thereto.

Library Board of Trustees

**Recommendation: At Town Meeting.**

*Article 16 Explanation: Additional funding is required to supplement the \$160,000 authorized in Article 18 STM October 2007 in order to replace the library roof due to increases in material and labor costs.*

**ARTICLE 17** Will the Town vote to adopt the following bylaw:

**I. Dangerous dogs and vicious dogs**

A. *Definition.* A “dangerous dog” or “vicious dog” as used in this section, shall mean:

1. Any dog that has bitten or attacked any person or has attempted to bite or attack any person. A dog shall be deemed to be attempting to attack if it is restrained by a leash, fence or other means, and it is clear from the dog’s excited actions, in the eyes of a reasonable person, that only the presence of the leash, fence, or other means of restraint is preventing the dog from making an immediate attack.
2. Any dog which has a demonstrated propensity, tendency or disposition to attack, to cause injury to, or to otherwise threaten the safety of domestic animals.
3. Any dog which, whether leashed or not, approaches any person in a manner which would be considered by a reasonable person to be vicious or terrorizing and in an apparent attitude of attack upon the streets, sidewalks, or any public grounds, places or beaches.
4. Any dog owned or harbored primarily, in part or in the past for the purpose of dog fighting or any dog trained for dog fighting.

5. The determination that a dog is dangerous or vicious under this section shall be at the discretion of the Animal Control Officer after investigation to determine whether dog has engaged in the described behavior and the Animal Control Officer shall notify the owner of any such determination.
6. Designation of Dangerous Dog is not dependent upon the breed or mix of breeds in a dog.

***EXCEPT THAT*** no dog shall be considered dangerous or vicious by reason of any bite or attack if:

- a. A human being, who, at the time the injury was sustained, was committing trespass upon premises occupied by the owner of the dog, or was teasing, tormenting, abusing or assaulting the dog, or was committing or attempting to commit a crime.
- b. A domestic animal, at the time the injury was sustained, was teasing, tormenting, abusing or assaulting the dog.
- c. The injury occurred while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under the control of, its owner, and if the injury was to a species or type of domestic animal appropriate to the work of the dog.
- d. No dog shall be considered dangerous if the dog was protecting or defending a person within the immediate vicinity of the dog from an attack.
- e. No military, correctional or police-owned dogs shall be considered dangerous if the attack or injury to a person or domestic animal occurs while the dog is performing duties as expected.
- f. The dog acted in reaction to pain, injury or provocation or was protecting itself, its kennel or its offspring. For the purposes of this bylaw, provocation shall include hitting, kicking, taunting or striking of a dog with an object or part of a person's body, and/or if any part of the dog's body was pulled, pinched or squeezed by a person.

***B. Deeming a dog dangerous, appealing such a classification.***

1. The notice shall be in writing and mailed by certified mail to the owner's last known address.
2. The notice shall include a summary of the Animal Control Officer's findings that form the basis for the dog's classification as a dangerous dog.
3. The notice shall be dated and shall state that the owner has a right to request a hearing on the classification within 15 days from the date of the notice. Upon receipt of the notice, the dog shall be kept in strict confinement, meaning that the dog must be surrounded by four solid walls and a roof or leash walked.
4. A Dangerous Dog Advisory Board, appointed by Selectman, shall oversee the implementation and enforcement of the Dangerous Dog Bylaw. The Dangerous Dog advisory Board will consist of five members. For three of the five seats, preference shall be given to people currently employed or retired from animal care/ animal training/ humane work. Members will be appointed by the Board of Selectman. Members will serve a term of one or two years the first year, then

each renewal shall be for two years, rotating reappointment of either two or three members each year.

Upon request, the Dangerous Dog advisory Board shall be charged to evaluate Dangerous Dog problems by collecting necessary data, hearing expert opinion, holding public hearings, etc and shall recommend solutions or actions necessary to resolve such problems within the scope of the Dangerous Dog Bylaw. If resolution is not satisfactory at the level of the advisory board, they will recommend the issue be brought to the Board of Selectman for further review.

The Board will meet as necessary. The Board will hear testimony, and collect information regarding the implementation of the Dangerous Dog Bylaw. The Board will advise the Board of Selectman after hearing any issues regarding the implementation of the Dangerous Dog Bylaw.

All requests for hearings to the Dangerous Dog Advisory Board must be done in writing and on a form to be designed by the Dangerous Dog Advisory Board.

5. The notice shall state that the Board of Selectmen or Dangerous Dog Advisory Board shall conduct the hearing.
6. The notice shall state that if the owner does not request such a hearing within 15 days from the date of the notice, the classification of the dog as a dangerous dog shall be final and conclusive for all purposes.
7. The notice shall include a form to request a hearing before the Board of Selectmen or Dangerous Dog Advisory Board and shall provide specific instructions on mailing or delivering such a request.
8. At the hearing, the owner has a right to present, orally or in writing, any reasons and evidence as to why the dog should not be declared dangerous, including compliance with the American Kennel Club's Canine Good Citizen Certification program or a comparable course.

*C. The Dangerous Dog Advisory Board or Animal Control Office may order any or all of the following duties of a Dangerous Dog owner:*

1. Spaying or neutering, if the animal is not already altered. The animal shall be exempt from such an order if a veterinarian certifies in a written statement that the animal is unfit for alterations because of medical reasons. All costs should be borne by the dog owner.
2. Microchip identification, if the animal is not already microchipped. The microchip identification number (whether pre-existing or not) must be registered with a national registry and filed with the Animal Control Officer. Any costs incurred shall be borne by the owner.
3. Behavior training from a certified behaviorist or certified trainer, to be implemented as determined by the Animal Control Officer or Dangerous Dog Advisory Board.
4. Rabies vaccination as required by Chapter 140 : 145B of the General Laws, if the animal is not up to date on its annual vaccinations, as certified by a licensed veterinarian. All costs should be borne by the dog owner.

D. *Outdoor confinement.* No person shall own, keep, or harbor, or allow to be upon any premises occupied by him under his charge or control, any dangerous or vicious dog without it being confined to a proper enclosure.

For the purposes of this subsection, a proper enclosure shall mean a securely enclosed pen or structure suitably padlocked to reasonably prevent the entry of any person to enter or release the dog that is not authorized by the dog's owner and designed to prevent the escape by the dog. The proper enclosure shall also have secure sides and top and shall provide protection and shelter for the dog from the elements and weather. Said proper enclosure must be a chain link structure or pen of dimensions at least 12 feet by 12 feet and 6 feet high containing a solid floor sufficient to prevent the dog's escape by digging or breaking floor. The proper enclosure must be inspected and approved by the Animal Control Department before use of said proper enclosure satisfies the requirements of this subsection.

Whenever the dog is removed from its proper enclosure, the dog shall be securely muzzled and leashed on a leash no longer than 4 feet in length. The dog must be under control of a responsible person 18 years of age and older. No such dogs are allowed on or within 500 feet of any Town schools, parks, playgrounds, beaches, or conservation areas.

E. *Indoor Confinement.* No vicious dog may be kept on a porch, patio, or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when the screen windows or screen doors are the only obstacles preventing the dog from exiting the structure.

F. *Signs.* All owners, keepers or harborers of dangerous dogs shall display in a prominent place on their premises a sign easily readable by the public, using the words "Beware of Dog." Additional signage is required to be posted on the kennel or pen of the dog and on any gates leading into the property. Signs will be approved by the Animal Control Officer at the expense of the owner.

G. *Insurance.* The owner or custodian of any vicious dog shall maintain a policy of insurance in an amount not less than \$300,000 per incident insuring such person against any claim, loss damage, or injury to any human being resulting from the acts of such dog. Such person may be required to produce evidence of the required insurance upon the request of the Animal Control Officer. This section shall not apply to dogs kept by law enforcement agencies.

H. *Notification.* The owner of a dangerous dog shall notify the Animal Control Officer in person or by telephone within two hours of the occurrence of any one of the following events:

1. The dog has escaped or has otherwise ceased to be in the custody of the owner for any reason.
2. Such dog has attacked a human being.
3. Such dog has been given away, sold, bartered, or otherwise transferred to the ownership or possession of another person.
4. The dog has died.

I. *Giving away, selling, or bartering.* Any dog deemed vicious under this section shall not be given away, sold, or bartered unless new owners comply with the commands or directions under this section, if the new owners reside in Marshfield.

J. *Change of premises.* The dog owner must notify the Animal Control Officer of any change of premises within 30 days of the move.

K. *Impoundment.* Any dog that has been deemed “dangerous,” found running at large or in violation of this section, shall be impounded by the Animal Control Officer and cannot be claimed until the provisions of the section are met. The impoundment fee is borne by the owner whether or not such a dog is claimed. If such dog is not reclaimed within 10 days of such impoundment, the animal may be disposed of by adoption or euthanasia, which determination shall be made after a hearing before the Dangerous Dog Advisory Board.

L. *Destruction.* When in the judgment of the Animal Control Officer, a dog should be destroyed after being determined vicious, Section 157 of Chapter 140 of the General Laws shall be applicable.

M. *Licensing Surcharge.* The annual licensing fee for a dangerous dog shall include a \$100 surcharge in addition to the regular licensing fee. The surcharge required by this provision shall be enforced by the Animal Control Officer.

N. *Penalties.* After 30 days of being notified that a dog is dangerous or vicious, any owner found not in compliance with any of the provisions of this section shall be subject to a fine of \$300. Each day that the owner is not in compliance with any provision shall constitute a separate offense.

O. *Persons responsible.* No person under the age of 18 shall own, handle, control or be responsible for a dangerous dog.

## **II. Potentially Dangerous Dogs**

A. *Definition.* A “potentially dangerous dog” as used in this section, shall mean:

1. Any dog that is impounded or its owners cited for allowing a dog to run off leash three or more times within a 12-month period.
2. Any dog that acts in manner deemed by a reasonable person to be highly aggressive when unprovoked. Any dog that exhibits such behavior within a fenced yard or enclosure that appears to the Animal Control Officer to be able to jump over or escape. Vocalization or barking, without more, shall not cause a dog to be deemed of a highly aggressive manner.
3. The determination that a dog is potentially dangerous under this section shall be in the discretion of the Animal Control Officer and the Animal Control Officer shall notify the owner and property owner (if different) of such a determination.

***EXCEPT THAT*** no dog shall be considered potentially dangerous by reason of its conduct if:

- a. The dog was protecting or defending a person within the immediate vicinity of the dog from an attack.
- b. The dog acted in reaction to pain, injury or provocation or was protecting itself, its kennel or its offspring. For the purposes of this bylaw, provocation shall include hitting, kicking, taunting or striking of a dog with an object or part of a person’s body, and/or if any part of the dog’s body was pulled, pinched or squeezed by a person

B. *Deeming a dog “potentially dangerous”, appealing such a classification.*

1. The notice shall be in writing and mailed by certified mail to the owner's last known address.
2. The notice shall include a summary of the Animal Control Officer's findings that form the basis for the dog's classification as a potentially dangerous dog.
3. The notice shall be dated and shall state that the owner has a right to request a hearing on the classification within 15 days from the date of the notice. Upon receipt of the notice, the dog shall be kept in strict confinement, meaning that the dog must be surrounded by four solid walls and a roof or leash walked.
4. The notice shall state that the Board of Selectmen or Dangerous Dog Advisory Board shall conduct the hearing.
5. The notice shall state that if the owner does not request such a hearing within 15 days from the date of the notice, the classification of the dog as a dangerous dog shall be final and conclusive for all purposes.
6. The notice shall include a form to request a hearing before the Board of Selectmen or Dangerous Dog Advisory Board and shall provide specific instructions on mailing or delivering such a request.
7. At the hearing, the owner has a right to present, orally or in writing, any reasons and evidence as to why the dog should not be declared dangerous, including compliance with the American Kennel Club's Canine Good Citizen Certification program or a comparable course.

*C. The Dangerous Dog Advisory Board or Animal Control Office may order any or all of the following duties of a Potentially Dangerous Dog owner:*

1. Spaying or neutering, if the animal is not already altered. The animal shall be exempt from such an order if a veterinarian certifies in a written statement that the animal is unfit for alterations because of medical reasons. Any costs incurred shall be borne by the owner.
2. Microchip identification, if the animal is not already microchipped. The microchip identification number (whether pre-existing or not) must be registered with a national registry and filed with the Animal Control Officer. Any costs incurred shall be borne by the owner.
3. Behavior training from a certified behaviorist or certified trainer, to be implemented as determined by the Animal Control Officer or Dangerous Dog Advisory Board.
4. Rabies vaccination as required by Chapter 140 : 145B of the General Laws, if the animal is not up to date on its annual vaccinations, as certified by a licensed veterinarian. Any costs incurred shall be borne by the owner.
5. The owner provides adequate security to the premises where the potentially dangerous dog is kept, as specifically described in writing to the owner by the Animal Control Officer or Dangerous Dog Advisory Board. Said owner must comply within 60 days of receiving such description.

*D. Persons responsible.* No person under the age of 18 shall own, handle, control or be responsible for a potentially dangerous dog.

*E. Signs.* All owners, keepers or harborers of dangerous dogs shall display in a prominent place on their premises a sign easily readable by the public, using the words "Beware of

Dog.” Additional signage is required to be posted on the kennel or pen of the dog and on any gates leading into the property. Signs will be approved by the Animal Control Officer at the expense of the owner.

F. *Notification.* The owner of a dangerous dog shall notify the Animal Control Officer in person or by telephone within two hours of the occurrence of any one of the following events:

1. The dog has escaped or has otherwise ceased to be in the custody of the owner for any reason.
2. Such dog has attacked a human being.
3. Such dog has been given away, sold, bartered, or otherwise transferred to the ownership or possession of another person.
4. The dog has died.

G. *Change of premises.* The dog owner must notify the Animal Control Officer of any change of premises within 30 days of the move.

H. *Licensing Surcharge.* The annual licensing fee for a dangerous dog shall include a \$50 surcharge in addition to the regular licensing fee. The surcharge required by this provision shall be enforced by the Animal Control Officer.

I. *Penalties.* After 30 days of being notified that a dog is potentially dangerous, any owner found not in compliance with any of the provisions of this section, except for section II C. 5 for which violations found after 60 days of said notification, shall be subject to a fine of \$100 for any first offense; \$200 for any second offense; and \$300 for any offense thereafter. Each day that the owner is not in compliance with any provision shall constitute a separate offense.

J. If, 36 months after owners are in complete compliance with above orders, and no subsequent leash law or Dangerous Dog Bylaw complaints have been validated, the owner may petition the Dangerous Dog Advisory Board to have such designation removed.

Dangerous Dog Bylaw Advisory Committee

**Recommendation: At Town Meeting.**

*Article 17 Explanation: This Dangerous Dog Bylaw is intended to be an educational piece that the Animal Control Department and Board of Selectmen can use to help in preventing situations where a dog must be euthanized. It contains a series of steps to encourage dog owners to restrain and retrain their dogs and themselves before their dogs reach the stage of “dangerousness”. This law works in conjunction with both the local leash law and Chapter 157, Ma. Gen. Law regarding vicious dogs. This law offers concrete solutions to problems with dogs, long before euthanasia is recommended.*

*In considering the drafting of this law, the committee reviewed Dangerous Dog laws and ordinances from all over the country, including local towns, and reviewed input from area veterinarians and laypersons, dog walkers, dog trainers. Guidelines that have been previously published from the American Kennel Club and the American Veterinary Medical Society were followed, especially the provision regarding “potentially dangerous dogs”.*

*Input was weighed also from the Animal Rescue League, American Humane Society, and MSPCA. The committee consisted of: The Animal Control Officer, a representative of the Insurance industry, a Police Officer, and three members of the public who own dogs. Two have a vested interest in training or raising of dogs.*

You are directed to serve this warrant by posting attested copies thereof at ten public places in different parts of the Town not less than fourteen days before the holding of said meeting. Hereof fail not to make the due return of this Warrant with our doings thereon to the Town Clerk at the time and place of the meeting aforesaid:

Given under our hands this 21st day of February 2008.



BOARD OF SELECTMEN

Patricia M. Epstein, Chairman

Katharine N. O'Donnell

Michael A. Maresco

A true copy, ATTEST:  
Constable